

APPENDIX F.3

**IDEM February 8, 1997 Decision Letter
Regarding COE Nationwide Permits**

Reprint of IDEM's Section WQC Letter Regarding the 1997 Reauthorization

February 8, 1997

Mr. Doug Shelton
U.S. Army Corps of Engineers
Louisville District
P.O. Box 59
Louisville, Kentucky 40201-0059

Dear Mr. Shelton:

RE: Section 401 Water Quality Certification
1997 Nationwide Permit Program Reauthorization
Final Agency Decision

Office of Water Management staff have completed our review of the 1997 U.S. Army Corps of Engineers Reauthorization of the Nationwide Permit Program. The final language is summarized in the Public Notice issued by your office on December 19, 1996. The following represents the Indiana Department of Environmental Management's (IDEM) final decisions on the approval or denial of Section 401 Water Quality Certification for each of the 39 new, modified or reissued nationwide permits. For each nationwide permit we have indicated our decision and listed any specific conditions that must be satisfied in order for a valid authorization under that nationwide to occur.

Although a site specific Section 401 Water Quality Certification will be required for any nationwide formally denied 401 Water Quality Certification or denied without prejudice by the Corps of Engineers, applicants complying with IDEM's stated conditions will generally be granted Section 401 Water Quality Certification. As noted, any nationwide for which Section 401 Water Quality Certification has been granted **WILL NOT REQUIRE** a separate application to this office.

Nationwide Permit:

1. Aids to Navigation

DECISION: Grant Section 401 Water Quality Certification with no conditions

2. **Structures in Artificial Canals**
DECISION: Grant Section 401 Water Quality Certification with no conditions

3. **Maintenance**
DECISION: Grant Section 401 Water Quality Certification with no conditions

4. **Fish and Wildlife Harvesting, Enhancement,
and Attraction Devices and Activities**
DECISION: Grant Section 401 Water Quality Certification with no conditions

5. **Scientific Measurement Devices**
DECISION: Grant Section 401 Water Quality Certification with no conditions

6. **Survey Activities**
DECISION: Grant Section 401 Water Quality Certification with no conditions

7. **Outfall Structures**
DECISION: Grant Section 401 Water Quality Certification with no conditions

8. **Oil and Gas Structures**
DECISION: Grant Section 401 Water Quality Certification with no conditions

9. **Structures in Fleeting and Anchorage Areas**
DECISION: Grant Section 401 Water Quality Certification with no conditions

10. **Mooring Buoys**
DECISION: Grant Section 401 Water Quality Certification with no conditions

11. **Temporary Recreational Structures**
DECISION: Grant Section 401 Water Quality Certification with no conditions

12. **Utility Line Discharges**
DECISION: Grant Section 401 Water Quality Certification with no conditions

- 13. Bank Stabilization**
DECISION: Grant Section 401 Water Quality Certification with the following condition:
1. Section 401 Water Quality Certification is granted for all projects under 500 linear feet in length. A site-specific Section 401 Water Quality Certification is required for any and all projects which qualify for this nationwide permit and are 500 linear feet or greater in length.
- 14. Road Crossings**
DECISION: Deny Section 401 Water Quality Certification
- 15. U.S. Coast Guard Approved Bridges**
DECISION: Deny Section 401 Water Quality Certification
- 16. Return Water from Upland Contained Disposal Areas**
DECISION: Grant Section 401 Water Quality Certification with the following condition:
1. The discharge of return water from upland contained disposal areas is regulated by the Indiana Department of Environmental Management's (IDEM) National Pollution and Discharge Elimination System Permitting Program. Persons qualifying for this nationwide permit are advised to contact IDEM regarding the possible need for additional permits or authorizations.
- 17. Hydropower projects**
DECISION: Deny Section 401 Water Quality Certification
- 18. Minor Discharges**
DECISION: Grant Section 401 Water Quality Certification with no conditions
- 19. Minor Dredging**
DECISION: Grant Section 401 Water Quality Certification with no conditions
- 20. Oil Spill Cleanup**
DECISION: Deny Section 401 Water Quality Certification
- 21. Surface Coal Mining Activities**
DECISION: Grant Section 401 Water Quality Certification with no conditions
- 22. Removal of Vessels**

DECISION: Grant Section 401 Water Quality Certification with no conditions

23. Approved Categorical Exclusions

DECISION: Deny Section 401 Water Quality Certification

24. State Administered Section 404 Programs

DECISION: Grant Section 401 Water Quality Certification with no conditions

25. Structural Discharges

DECISION: Grant Section 401 Water Quality Certification with no conditions

26. Headwaters and Isolated Waters Discharges

DECISION: Deny Section 401 Water Quality Certification

27. Wetland and Riparian Restoration and Creation Activities

DECISION: Grant Section 401 Water Quality Certification with no conditions

28. Modifications of Existing Marinas

DECISION: Grant Section 401 Water Quality Certification with no conditions

29. Single-Family Housing

DECISION: Grant Section 401 Water Quality Certification with the following conditions:

1. No activities authorized by this nationwide will be permitted in or adjacent to any of the state's designated salmonid waters, State Resource Waters, and Exceptional Use Streams.
2. Septic fields or any other septic treatment systems shall not be built within waters of the state. All efforts should be made to pump septic wastes offsite or to a viable upland area onsite.
3. This certification shall be limited to a house, an attached garage, a driveway, a storage shed, and limited perimeter fill. The perimeter fill shall not exceed 15 feet from the edge of any authorized structure. The base width of the driveway shall be limited to 20 feet, where practicable. Culverts shall be installed under the driveway to maintain existing hydrology.
4. The homesite and other certified structures shall not bisect or otherwise isolate hydrologically any part of a wetland from the larger wetland complex.
5. Certified activities shall be limited to isolated waters, including wetlands. "Isolated waters" means any water body, not including fens and bogs, which has no direct

hydrologic connection to any other water body. Impacts to any river, stream, lake, riparian corridor, fringe wetland or any other non-isolated water shall require a site specific Section 401 Water Quality Certification unless authorized by any nationwide permit which has been previously granted Section 401 Water Quality Certification.

6. Authorized impacts to waters of the state shall not exceed 0.10 acres. All efforts to avoid and minimize impacts to waters of the state must take place before impacts to waters of the state are certified.

30. Moist Soil Management for Wildlife

DECISION: Grant Section 401 Water Quality Certification with no conditions

31. Maintenance of Existing Flood Control Projects

DECISION: Deny Section 401 Water Quality Certification

32. Completed Enforcement Activities

DECISION: Deny Section 401 Water Quality Certification

33. Temporary Construction, Access, and Dewatering

DECISION: Grant Section 401 Water Quality Certification with no conditions

34. Cranberry Production Activities

DECISION: Deny Section 401 Water Quality Certification

35. Maintenance Dredging of Existing Basins

DECISION: Grant Section 401 Water Quality Certification with no conditions

36. Boat Ramps

DECISION: Grant Section 401 Water Quality Certification with no conditions

37. Emergency Watershed Protection and Rehabilitation

DECISION: Grant Section 401 Water Quality Certification with no conditions

38. Cleanup of Hazardous and Toxic Waste

DECISION: Deny Section 401 Water Quality Certification

39. * Reserved *

- No decision required

40. Farm Buildings
DECISION: Deny Section 401 Water Quality Certification

In addition, the following nationwide permits are denied Section 401 Water Quality Certification if the activity occurs on or in any Designated State Salmonid Water, any Outstanding State Resource Water, any Outstanding National Resource Water or any listed Exceptional Use Stream -

- 12. Utility Line Discharges**
- 18. Minor Discharges**
- 19. Minor Dredging**
- 33. Temporary Construction, Access, and Dewatering**
- 36. Boat Ramps**

See Appendix 1 for the complete list of waters affected by this decision. As of the date of this letter, no waterbodies within the state of Indiana have been designated Outstanding National Resource Waters.

If you have any questions regarding this decision, please contact Mr. Andrew Pelloso, Senior Environmental Manager, at 317/233-2481 or Mr. Dennis Clark, Section Chief, at 317/233-2482. All Section 401 Water Quality Certification decisions will remain in force without change until the specific nationwide is revoked, modified, or reauthorized.

Sincerely,

ORIGINAL SIGNED

R.J. Henley
Assistant Commissioner
Office of Water Management

cc: Mr. John Konik, USACOE-Detroit
Mr. Rodney Woods, USACOE Ohio River Division
Mr. Michael Loesch, USACOE North Central Division
Mr. Kevin Pierard, USEPA Region V
Mr. David Hudak, USFWS-Bloomington
Mr. Robert Eddleman, NRCS
Mr. Patrick Ralston, IDNR
Mr. Grady McCallie, National Wildlife Federation
Ms. Susan Thomas, Sierra Club Wetlands Project
Mr. Tim Maloney, Hoosier Environmental Council

Appendix 1: List of Indiana Waters in Which Conditional Denial of Certain NWP's apply

Designated Salmonid Waters:

- (1) Trail Creek and tributaries upstream of U.S. Highway 35.
- (2) East Branch of the Little Calumet river and its tributaries downstream to Lake Michigan via Burns Ditch.
- (3) Kintzele Ditch (Black Ditch) from Beverly Drive downstream to Lake Michigan.
- (4) Salt Creek above its confluence with the Little Calumet River.
- (5) Galena River and its tributaries in LaPorte County.
- (6) The St. Joseph River and its tributaries in St. Joseph County from the Twin Branch Dam in Mishawaka downstream to the Indiana/Michigan State Line.

Streams which have been designated all or partially as Outstanding State Resource Waters:

- (1) The Blue River in Washington, Crawford, and Harrison Counties.
- (2) Cedar Creek in Allen and DeKalb Counties.
- (3) The North Fork of Wildcat Creek in Carroll and Tippecanoe Counties.
- (4) The South Fork of Wildcat Creek in Tippecanoe County.
- (5) The Indiana portion of Lake Michigan.
- (6) All waters incorporated in the Indiana Dunes National Lakeshore.

Streams which have been designated all or partially as Exceptional Use Streams.

- (1) Big Pine Creek in Warren County.
- (2) Mud Pine Creek in Warren County.
- (3) Fall Creek in Warren County.
- (4) Indian Creek in Montgomery County.
- (5) Clifty Creek in Montgomery County.
- (6) Bear Creek in Fountain County.
- (7) Rattlesnake Creek in Fountain County.
- (8) The small tributary to Bear Creek in Fountain County within the Portland Arch Nature Preserve which enters Bear Creek at the sharpest bend and has formed the small natural bridge called Portland Arch.
- (9) Blue River from the confluence of the West Middle Forks of the Blue River in Washington County.
- (10) The South Fork of the Blue River in Washington County.
- (11) Lost River and all surface and underground tributaries upstream from the Orangeville Rise (T2N, R1W, Section 6) and the Rise of Lost River (T2N, R1W, Section 7) and the mainstream of the Lost River from the Orangeville Rise downstream to its confluence with the East Fork of the White River.